

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORKDISCOVER PROPERTY & CASUALTY
COMPANY, et al.,

Plaintiffs,

- against -

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

Index No. 652933/2012 E

STIPULATION BETWEEN NFL
PARTIES AND ALLSTATE
REGARDING BAD FAITH
CLAIM, CONSENT, AND
MOTION FOR LEAVE TO
AMEND

WHEREAS, the National Football League and NFL Properties LLC (together, the "NFL Policyholders") have filed a motion for leave to file an Amended Answer to Amended Complaint and Second Amended Counterclaims and Cross-claims ("Second Amended Pleading");

WHEREAS, the NFL Policyholders entered into a class action settlement agreement dated June 25, 2014 and amended on February 13, 2015, resolving claims brought by numerous retired NFL football players (the "Class Settlement");

WHEREAS, the Second Amended Pleading includes, among other counts, Count V – Cause of Action for Declaratory Relief As to Certain Insurers' Bad Faith Refusal to Consent to the Class Settlement ("Bad Faith Count"). The Bad Faith Count is directed at a subset of the insurer parties to this litigation, including Allstate Insurance Company, solely as successor in interest to Northbrook Excess & Surplus Insurance Company, formerly Northbrook Insurance Company, ("Allstate"), based on, *inter alia*, its alleged refusal to consent to the Class Settlement or to waive lack of consent thereto as a coverage defense; and

WHEREAS, on January 4, 2017, Allstate filed an Answer to Plaintiffs' Amended Complaint that includes, among other affirmative defenses, a Twenty-First Separate Defense, which alleges: "The claims in the Amended Complaint may be barred, in whole or in part, to the extent that . . . the alleged insureds have voluntarily paid or assumed an obligation to pay

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or have incurred any expense without notice to Allstate or without Allstate's consent or approval."

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the NFL Policyholders and Allstate, by their undersigned counsel, as follows:

1. The NFL Policyholders agree not to pursue Count V of the Second Amended Pleading against Allstate or to otherwise argue that Allstate refused to consent in bad faith to the Class Settlement.

2. Allstate agrees not to pursue its Twenty-First Separate Defense with respect to the Class Settlement or to otherwise argue that coverage is limited or defeated with respect to the Class Settlement on the ground that the NFL Policyholders entered into the Class Settlement without Allstate's consent or voluntarily agreed to make any payments pursuant to the Class Settlement without Allstate's consent.

3. In light of the understandings set forth in paragraphs 1 and 2 of this stipulation, Allstate agrees not to object to the NFL Policyholders' motion for leave to file the Second Amended Pleading.

4. This stipulation may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same agreement. Facsimile signatures shall have the same force and effect as originals.

NYSCEF DOC. NO. 347

RECEIVED NYSCEF: 02/27/2017

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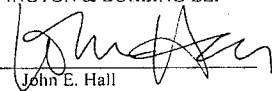
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SO STIPULATED:

New York, New York
February 22, 2017

COVINGTON & BURLING LLP

By


John E. Hall

The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 841-1000

*Counsel for Defendants the National Football
League and NFL Properties, LLC*

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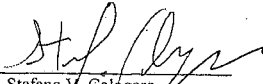
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WINDELS MARX LANE & MITTENDORF,
LLP

By


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Company*

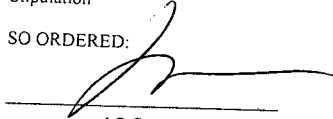
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SO ORDERED:



J.S.C.

JEFFREY K. OING
J.S.C.

2/27/17

Stipulation b/t NFL
Parties & Allstate
regarding Bad Faith
Claim, Consent, &
Motion for Leave to
Amend.